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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by North-South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 December 1999]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

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IMMUNITY IN CASES OF VIOLATIONS OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

1. Commission on Human Rights resolution 1999/58 of 28 April 1999 is an important step in the necessary process of upgrading economic, social and cultural rights from the legal and political standpoints. The fifty-sixth session of the Commission on Human Rights should be the occasion to intensify this process of affirming the indivisible nature of human rights, be they civil and political or economic, social and cultural, in accordance with the 1993 Vienna Declaration.

2. It should be recalled that in 1951 the General Assembly of the United Nations approved the adoption of a single, legally binding covenant on human rights in accordance with the wishes of the drafters of the Universal Declaration of Human Rights, which in its preamble states that "oppression" and "want" are two equal sources of human rights violations.

3. One cannot help but notice that human rights have been organized into a hierarchy at the insistence of western States, which have imposed a narrow interpretation limited to civil and political rights. It is noteworthy that the United States has not ratified the 1966 International Covenant on Economic, Social and Cultural Rights. According to the neoliberal way of thinking, there is no need to incorporate in law something that should depend on the market alone. In fact what happens is that economic freedom and its practical consequence, the concentration of firms, weaken the State and undermine economic and social rights. Whereas the major powers have invented "humanitarian intervention" with the official aim of safeguarding civil and political rights, they have not gone so far as to advocate "social intervention" to combat, for example, the widespread violation of trade-union freedoms or to guarantee people's right to housing, health or education. On the contrary, some United Nations agencies, such as the International Monetary Fund (IMF), actually "organize" the reduction or suppression of social rights in their structural adjustment programmes. Mexico, for example, after 14 years of structural adjustment and after joining the North American Free Trade Agreement (NAFTA), has lost 2.2 million jobs, and 40 million people live in abject poverty.

4. The universality of economic and social rights, unlike that of civil and political rights, is not disputed. This unreserved recognition that transcends cultural boundaries should facilitate their implementation and the punishment of those who violate them.

5. However, whereas the International Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia were established to punish crimes against humanity and genocide, and the International Criminal Court is responsible for judging war crimes, impunity in cases of violations of economic and social rights is never questioned, despite the facts presented in the Human Development Report of the United Nations Development Programme (UNDP).

6. Technically speaking, however, it is not impossible to identify violations of economic and social rights or to attribute responsibility for them, including the personal criminal responsibility of the directors of transnational corporations (for example, the directors of oil companies that have seriously damaged the environment and right to health of the Ogonis in Nigeria). International business law could, as in domestic law, be extrapolated to an international criminal business law and an economic criminal court is not inconceivable. A working group should be set up to look at the question of impunity in cases of violations of economic and social rights and to propose practical steps to put an end to it.